

Message Text

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ACTION TRSE-00

INFO OCT-01 AF-10 ISO-00 L-03 EB-11 CIAE-00 INR-11 NSAE-00

RSC-01 DRC-01 OPIC-12 /050 W
----- 102096

R 240820Z JUL 74

FM AMEMBASSY LIBREVILLE

TO SECSTATE WASHDC 560

INFO USDOC WASHDC

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E.O. 11652: N/A

TAGS: EFIN, BEXP, ENRG, GB, US

SUBJ: GABONESE REQUIREMENTS AND U.S. TAX LAW

USDOC FOR STEPHEN CONGER

1. DURING PAST WEEK EMBASSY HAS RECEIVED REQUESTS FROM TWO SENIOR GOG OFFICIALS FOR INFORMATION ON HOW U.S. TAX LAWS AFFECT AMERICAN FIRMS AND CITIZENS WORKING IN GABON.

2. QUESTIONS ARE NATURAL RESULT OF GOG TURNING INCREASINGLY TO U.S. FIRMS FOR SALES AND SERVICES AND OF U.S. COMPANIES' INTEREST IN GABONESE PETROLEUM CONCESSIONS. UP TO NOW GOG HAS BEEN CONCERNED ALMOST EXCLUSIVELY WITH FRENCH TAXATION PRACTICES WHICH HARMONIZE WITH GABONESE REQUIREMENTS BECAUSE OF BILATERAL ACCORDS. ON THE OTHER HAND, U.S. INDIVIDUAL AND CORPORATE TAX SYSTEMS VIRTUALLY UNKNOWN HERE. UNLESS GABONESE UNDERSTAND OUR LAWS AND MAKE SOME CONCESSIONS TO THEM, OUR FIRMS WILL BE AT A CONTINUED DISADVANTAGE.

3. IN CASE OF TAXES ON INDIVIDUAL INCOMES, IT IS IMPORTANT THAT SALARIES OF U.S. EMPLOYEES WORKING IN GABON NOT BE SUBJECT TO LOCAL TAXATION OR ELSE THE TAX "BREAK" SUCH INDIVIDUALS RECEIVE UNDER U.S. LAW WILL BE NULLIFIED. U.S. FIRMS HERE WOULD THEN HAVE DIFFICULTY IN RECRUITING

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EXPERTS OR BE FORCED TO PAY THEM HIGHER SALARIES. THIS

PROBLEM AROSE SPECIFICALLY DURING RECENT TAMS-OCTRA NEGOTIATIONS FOR ENGINEERING CONTRACT FOR FIRST LEG OF TRANSGABON. TAMS REP HEINS CALLED CHARGE JULY 18 FOLLOWING TALKS WITH OCTRA ASSISTANT GENERAL DIRECTOR TSIBAH IN WHICH HEINS ASKED THAT EXEMPTION FROM GABONESE TAXES BE GIVEN TO U.S. WORKERS IN GABON. CHARGE EXPLAINED TO HEINS WHAT HE THOUGHT WAS PRACTICE IN A NUMBER OF OTHER DEVELOPING COUNTRIES IN THIS REGARD AND PROMISED TO FOLLOW UP WITH TSIBAH. IN LATER CONVERSATION WITH TSIBAH, CHARGE POINTED OUT IMPORTANCE TO U.S. FIRMS OF OBTAINING FOR THEIR EMPLOYEES EXEMPTION FROM LOCAL TAXES. CHARGE ADDED THAT, OF COURSE, SUCH EXEMPTION NEED NOT NECESSARILY BE EXTENDED TO U.S. EXPATRIATES WORKING FOR GABONESE FIRMS OR TO THOSE IN RELATIVELY PERMANENT STATUS HERE SUCH AS OIL COMPANY EMPLOYEES. WHAT WE ASKING FOR WAS EXEMPTION FOR TEMPORARY WORKERS ON SUCH PROJECTS AS TRANSGABON. TSIBAH APPEARED SYMPATHETIC AND PROMISED TO LOOK INTO MATTER. WE UNDERSTAND FROM HEINS THAT TSIBAH SUBSEQUENTLY FORWARDED TO PRESIDENT BONGI FOR APPROVAL DRAFT LETTER WHICH WOULD EXEMPT CERTAIN CATEGORIES OF U.S. WORKERS IN GABON FROM LOCAL TAXES. HEINS SAID HE WAS PLEASED WITH WORDING OF DRAFT AND NOTED IF APPROVED IT WOULD ANSWER HIS REQUIREMENTS.

4. GOG MINISTER OF STATE FOR MINES MBOUY-BOUTZIT IN SEPARATE DISCUSSION WITH EMBOFF BROACHED SUBJECT OF INCOMPATIBILITY BETWEEN GOG REQUIREMENT FOR OIL CONCESSIONAIRES IN GABON TO ESTABLISH LOCAL FIRM UNDER GABONESE LAW AND DESIRE OF CONCESSIONAIRES TO BENEFIT FROM U.S. TAX WRITE-OFFS FOR OVERSEAS EXPENSES. THIS SAME PROBLEM HAS BEEN RAISED WITH EMBASSY BY AT LEAST THREE U.S. OIL COMPANIES. MBOUY-BOUTZIT REQUESTED INFORMAL DISCUSSION WITH EMBASSY ON HOW TO SORT OUT OUR TWO COUNTRIES' LEGAL REQUIREMENTS, APPARENTLY WITH AIM TO EVENTUALLY DEVELOP APPROPRIATE GABONESE DECREE ON THE SUBJECT.

5. COMMENT AND ACTION REQUESTED: BELIEVE WE ARE WELL ON THE WAY TO SOLVING PROBLEM OF TAXATION ON U.S. INDIVIDUALS' INCOMES IN GABON. WE WILL FOLLOW UP ON LIMITED OFFICIAL USE

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TSIBAH'S DRAFT PROPOSAL TO PRESIDENT BONGO AND REPORT DEVELOPMENTS AS THEY OCCUR. QUESTION OF U. S. CORPORATION TAXES MORE COMPLEX, HOWEVER, AND WE REALIZE SOMEWHAT SENSITIVE. IN ORDER TO RESPOND TO MINISTER OF MINES' REQUEST, WOULD GREATLY APPRECIATE BRIEF NON-TECHNICAL PRECIS OF U.S. CORPORATION LAW AS IT APPLIES TO WRITE-OFFS FOR FOREIGN OPERATIONS. WOULD ALSO BE GRATEFUL FOR EXAMPLES OF HOW U.S. COMPANIES AND OTHER

FOREIGN NATIONS HAVE SOLVED THIS PROBLEM. FOR EXAMPLE,
WE UNDERSTAND TUNISIA HAS ORGANIZED ITS NATIONAL OIL
COMPANY IN A MANNER SPECIFICALLY DESIGNED TO PERMIT
PARTICIPATING U.S. OIL COMPANIES TO STILL BENEFIT FROM
U.S. TAX WRITE-OFF.
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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: TAX LAW, TAXES
Control Number: n/a
Copy: SINGLE
Draft Date: 24 JUL 1974
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: kelleyw0
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1974LIBREV00931
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D740200-0457
From: LIBREVILLE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1974/newtext/t19740722/aaaaassc.tel
Line Count: 121
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION TRSE
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: kelleyw0
Review Comment: n/a
Review Content Flags:
Review Date: 28 AUG 2002
Review Event:
Review Exemptions: n/a
Review History: RELEASED <28 AUG 2002 by boyleja>; APPROVED <20 FEB 2003 by kelleyw0>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: GABONESE REQUIREMENTS AND U.S. TAX LAW USDOC FOR STEPHEN CONGER
TAGS: EFIN, BEXP, ENRG, GB, US
To: STATE
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005